

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )                           4:10CR3092  
                                )  
v.                            )  
                                )                           MEMORANDUM AND ORDER  
MARCELLA M. SCHARTON,    )  
                                )  
Defendants.                )

Defendant's counsel, Carlos Monzon, has represented the defendant as retained counsel in this case since August 27, 2010. A change of plea hearing was held today, and the undersigned magistrate judge has recommended that defendant's attempted plea not be accepted. The case is scheduled for trial beginning on August 22, 2011.

The defendant has orally moved for appointed counsel, stating she can no longer afford representation. Filing No. 50. Based on defendant's financial affidavit of record, (filing no. 60), the defendant is eligible for appointed counsel at this time. Carlos Monzon has advised the court that he is willing to be appointed as counsel for the defendant.

Accordingly,

IT IS ORDERED that the defendant's motion to appoint counsel, (filing no. 60), is granted, and

1) To avoid interruption and delay, and to provide continuity in defendant's representation, the court hereby appoints Carlos Monzon as counsel for the defendant pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1).

2) The Clerk of the court shall provide a copy of this memorandum and order to David Stickman, Federal Public Defender. David Stickman shall provide Mr. Monzon with the appropriate CJA voucher.

3) The trial of this case is set to commence before the Honorable Richard G. Kopf at 9:00 a.m. on August 22, 2011 for a duration of five trial days. Jury selection will be at the commencement of trial.

4) The court canceled the defendant's trial setting, and scheduled other cases for trial, based on defendant's statement that she wished to enter a plea. Accordingly, the parties prepared for a plea and not a trial, and now need additional time for trial preparations. Therefore, under the circumstances presented, and with the defendant's waiver and consent on the record, the time between today's date and August 22, 2011, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, for the reason that the parties require additional time to adequately prepare the case, taking into consideration due diligence of counsel, the novelty and complexity of the case, and the fact that the failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 18th day of May, 2011.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge